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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: **Derek Metcalf**

SERIAL NO.: **10/643,352**

GROUP ART UNIT: **3634**

FILED: **August 19, 2003**

EXAMINER: **Jennifer E. Novosad**

FOR: **Adjustable Shelving System**

Certificate Of Transmission Under 37 CFR 1.8
I hereby certify that this correspondence is being transmitted to the United States Patent Office Centralized Facsimile Number (571.273.8300), on October 7, 2005.


Janie Wilkins

Attorney Docket No.: 38949/282196

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

DATE: October 7, 2005

RESPONSE TO ELECTION / RESTRICTION REQUIREMENT

Sir:

In response to the July 7, 2005 Office communication, please consider the following remarks and provisional elections with traverse. In the July 7, 2005 Office communication, the Examiner required restriction among the following claim sets:

I. Claims 1-12 and 17: Drawn to an adjustable assembly and a shelving assembly with adjustable shelves.

II. Claims 13-16 and 18-20: Drawn to an adjustable shelf assembly.

Applicant provisionally elects claims 13-16 with traverse. Applicant respectfully submits that examination of the claims of the entire application will not

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impose an undue burden and that therefore the restriction requirement is improper.

See MPEP §803.

In the July 7, 2005 Office Action, the Examiner also required election between: (a) Figures 1-10; and (b) Figures 11-13, stating that no claims are generic to all the figures.

Applicant provisionally elects Figures 11-13 with traverse, which is readable on claims 13-16. Applicant respectfully submits that at least claim 13 is generic to Figures 1-10 and 11-13 and that therefore the election requirement is improper. For example, Figures 1-10 and Figures 11-13 show various views of an adjustable shelf assembly including a central shelf unit, a first extension shelf unit slidably arranged with respect to the central shelf unit, and a front member secured to the front edge of the central shelf unit having upper and lower lips formed into channels.

CONCLUSION

In light of the provisional elections with traverse, the undersigned is of the opinion that this application is in a condition for allowance and respectfully requests the same.

A request for a two-month extension of time accompanies this response as well as a form PTO-2038 Credit Card Payment Form. No other fees are believed due at this time. To the extent that belief is incorrect, the Commissioner is authorized to charge any additional fees that may be due for this Response to Deposit Account No. 11-0855.

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If the Examiner believes that there are any issues that can be resolved via a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call Michael Bertelson at (404) 815-6291.

Respectfully submitted,



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